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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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XAVIER MICHAEL MAGANA,

                    Petitioner,

        v.

RONALD HAYNES,

                    Respondent.

Case No. 3:22-cv-05682-LK-TLF

ORDER GRANTING UNOPPOSED
MOTION TO STAY AND ABEY

11   This matter is before the Court on petitioner's motion to stay. Dkt. 5. Respondent

12 has filed a response that—while not waiving any defenses to the petition—agrees a stay

13 is appropriate. Dkt. 12.

14   District courts may use a "stay-and-abeyance" procedure while a petitioner

15 exhausts his claims in state court. *Rhines v. Weber*, 544 U.S. 269, 275-77; *Calderon v.*

16 *United States District Court (Taylor)*, 134 F.3d 981, 988 (9th Cir.1998).

17   Here, petitioner asserts there are ongoing proceedings in his state court matter

18 that could render his federal habeas petition moot. Dkt. 5. Respondent agrees a stay is

19 appropriate because currently pending state court proceedings could render moot the

20 issues presented in this matter. Dkt. 12 at 2.

21   After reviewing the relevant record, the court concludes petitioner's motion

22 should be granted. The Court ORDERS as follows:

23   1. Petitioner's motion to stay (Dkt. 5) is GRANTED. This case is stayed.

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ORDER GRANTING UNOPPOSED MOTION TO STAY
AND ABEY - 1

2. Because petitioner is incarcerated and proceeding *pro se*, respondent is directed to file a report every ninety (90) days informing the Court of the status of petitioner's state proceedings. The first status report is due on or before **March 6, 2023** and shall include the state court cause number.

3. If the state court dismisses or resolves petitioner's state court proceedings, petitioner is directed to inform the Court and file a motion to lift the stay within 30 days of the state court taking action.

4. Respondent shall file his answer to the petition (in accordance with Rule 5 of the Rules Governing Section 2254 Cases) 45 days after the Court enters an order lifting the stay.

Dated this 5th day of December, 2022.

Theresa L. Fricke
United States Magistrate Judge

ORDER GRANTING UNOPPOSED MOTION TO STAY
AND ABEY - 2